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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,087	10/23/2003	David M. Stravitz	02271C2/LH	8472
1933	7590	04/07/2004	EXAMINER	
FRISHAUF, HOLTZ, GOODMAN & CHICK, PC 767 THIRD AVENUE 25TH FLOOR NEW YORK, NY 10017-2023			PARADISO, JOHN ROGER	
			ART UNIT	PAPER NUMBER
			3721	

DATE MAILED: 04/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/693,087

Applicant(s)

STRAVITZ, DAVID M.

Examiner

John R. Paradiso

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
- Paper No(s)/Mail Date _____.

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 5-8, and 12-19 are rejected under 35 U.S.C. 102(b) as being anticipated by RICHARDS ET AL (US 4869049).

RICHARDS ET AL discloses a waste disposal device comprising a housing (21) with a lid (69) movable between an open and a closed position to cover the opening of the device. A cartridge of flexible tubing (2) is arranged in the container, the tubing being pulled over a rotation mechanism (1) and into the interior chamber (36) of the device. The cartridge has a cover (72) that forms a ring-shaped opening through which the tubing is pulled. Waste (35) is placed into the tubing and is held in place by a retention mechanism (52), twisting the tubing shut above the waste. An access (53) allows the packaged waste to be removed from the interior chamber (See RICHARDS ET AL columns 1-2 and figures 1-2.).

Regarding claims 12 and 19 reciting “said cartridge is made of fibrous material.”

MerriamWebster.com defines fibrous as

- 1 a : containing, consisting of, or resembling fibers b : characterized by fibrosis c : capable of being separated into fibers <a *fibrous* mineral>
2 : TOUGH, SINEWY <*fibrous* texture>

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and this part of the claim is thus read on the cartridge of RICHARDS ET AL since it's cartridge is by it's nature and function tough enough to handle a large amount of use.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4 and 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over RICHARDS ET AL.

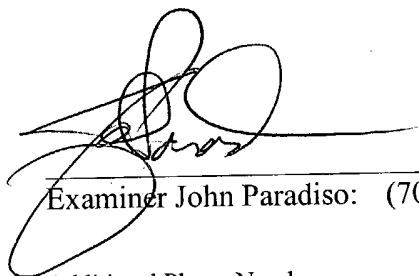
RICHARDS ET AL substantially discloses the claimed invention except for the front and rear end of the formed bags being closed by stitching, hook and loop fasteners, or tie and clasp fasteners. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use whichever of the claimed fastening methods most appealed to consumers, since knotting (as disclosed in RICHARDS ET AL), stitching, hook and loop fastening, and tie and clasp fastening are all art-recognized equivalents for the secure closing of refuse or trash bags.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Paradiso. The examiner can normally be reached Monday-Friday, 9:30 p.m. – 6:00 p.m. (ET).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada, can be reached at the number listed below.

Any inquiry of a general nature or relating to the status of this application should be directed to the 3700 Technology Center Receptionist.



Examiner John Paradiso: (703) 308-2825

April 5, 2004

Additional Phone Numbers:

Supervisor Rinaldi Rada: (703) 308-2187
TC 3700 Receptionist: (703) 308-1148
Customer Service: (703) 306-5648
Fax (directly to Examiner) (703) 746-3253
Fax (Official): (703) 872-9306